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Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Security Council
Sixty-fourth year

Report of the International Tribunal for the Former Yugoslavia

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and the members of the Security Council the sixteenth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, submitted by the President of the International Tribunal in accordance with article 34 of the statute of the Tribunal (see S/25704 and Corr.1, annex) which states that:

> "The President of the International Tribunal shall submit an annual report of the International Tribunal to the Security Council and to the General Assembly".

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Letter of transmittal

31 July 2009

Excellencies,

I have the honour to submit the sixteenth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, dated 31 July 2009, to the General Assembly and the Security Council, pursuant to article 34 of the statute of the International Tribunal.

Please accept, Excellencies, the assurances of my highest consideration.

(*Signed*) Patrick L. **Robinson**
President

President of the General Assembly
United Nations
New York

President of the Security Council
United Nations
New York

Sixteenth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Summary

The sixteenth annual report of the International Criminal Tribunal for the Former Yugoslavia covers the period from 1 August 2008 to 31 July 2009.

During the reporting period, the Tribunal continued to expedite its proceedings. The Appeals Chamber delivered three judgements involving four accused, bringing to 86 the number of cases fully completed. The Trial Chambers delivered three judgements involving nine accused and at their peak ran eight trials simultaneously in its three courtrooms, taking advantage of interstices in trial schedules.

At the close of the reporting period, appeal proceedings are ongoing for 12 persons, and 21 accused are currently on trial. Four accused remain at the pretrial stage. Unfortunately, two more accused remain at large: Ratko Mladić and Goran Hadžić. The failure to arrest the remaining two fugitives remains a grave concern to the Tribunal.

The Tribunal hosted an increasing number of working visits and training programmes for courts in the region in order to ensure the preservation of its legacy through the prosecution of war crimes cases by domestic courts. The Tribunal published a manual of its developed practices for use by other domestic and international courts with the assistance of the United Nations Interregional Crime and Justice Research Institute. The Tribunal also undertook a needs assessment of the countries of the former Yugoslavia and is developing a number of project proposals to fulfil identified, existing needs in partnership with the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE) and with UNICRI.

Patrick Robinson (Jamaica) was elected President of the International Tribunal at a plenary convened on 4 November 2008, and O-Gon Kwon (Republic of Korea) was elected Vice-President. The Registrar, Hans Holthuis, finished his term of office on 31 December 2008, and a new Registrar, John Hocking, was sworn in on 19 May 2009. Serge Brammertz continued as Prosecutor, following his appointment in November 2007 and his taking up office on 1 January 2008.

Over the reporting period, the Office of the Prosecutor made progress towards the completion of the Tribunal's mandate at both trial and appellate level. The Office of the Prosecutor continued to further develop interaction with the authorities of the States of the former Yugoslavia to encourage cooperation with the Tribunal and support domestic war crimes prosecutions.

The Registry continued to play a crucial role in the provision of administrative and judicial support. During the reporting period, the Registrar, under the authority of the President, provided operational support to the Chambers and the Office of the Prosecutor and managed the Tribunal in all administrative areas. The Registry Advisory Section for Legal and Policy Matters provided advice to the Registrar, Deputy Registrar, and the Administration of the Tribunal on a variety of legal and

policy matters. The Communications Service carried out a diverse range of activities with a view to increasing the profile of the Tribunal and bringing its judgements to the relevant communities. The Court Management and Support Services Section supported up to eight trials, as well as numerous pretrial, contempt and appeals hearings. The Conference and Language Services Section continued to provide the required interpretation, translation and court reporting services. The Victims and Witnesses Section facilitated 727 witnesses travelling to The Hague to give evidence. The Office for Legal Aid and Detention Matters serviced over 500 defence team members in cases in pretrial, trial and appellate proceedings. The United Nations Detention Unit continued to operate at a high level of activity, serving the judicial process on a daily basis and providing secure custodial care to all detained persons. The Administration Support Services Division coordinated the preparation of the revised estimates for the biennium 2008-2009 and the proposed programme budget for the biennium 2010-2011.

To date, the Tribunal has concluded proceedings against 120 accused out of the 161 indicted. The report that follows details the activities of the Tribunal during the reporting period and demonstrates the Tribunal's focus on its goal of completing its proceedings as soon as possible without sacrificing due process.

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I. Introduction

1. The sixteenth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 outlines the activities of the Tribunal for the period from 1 August 2008 to 31 July 2009.

2. During the reporting period, the Tribunal took steps towards implementing its completion strategy which the Security Council endorsed in resolution 1503 (2003). Judge Fausto Pocar (Italy) served as President, until his replacement on 17 November 2008, on the election of Judge Patrick Robinson (Jamaica) by the judges in plenary on 4 November 2008. Judge Kevin Parker (Australia) was replaced as Vice-President by the election of Judge O-Gon Kwon (Republic of Korea) at the same time.

3. To date, the Tribunal has concluded proceedings against 120 persons out of a total of 161 indicted accused. The Tribunal's three Trial Chambers continued to function at full capacity, running up to eight trials simultaneously in its three courtrooms. The Trial Chambers rendered three judgements involving nine accused and heard four contempt cases. The Appeals Chamber also expedited its work, issuing 36 decisions on interlocutory appeal, one decision on review, two contempt judgements and three appeal judgements on the merits.

4. The President, Prosecutor and Registrar developed individual and Tribunal-wide programmes aimed at increasing the capacity of local judiciaries to effectively prosecute and try war crimes cases. The Tribunal joined with other organizations — the United Nations Interregional Crime and Justice Research Institute (UNICRI), the Office for Democratic Institutions and Human Rights, and the Organization for Security and Cooperation in Europe (OSCE) — in developing knowledge transfer tools.

5. The Tribunal also focused its efforts on developing its downsizing strategy, which will begin to be implemented during the next biennium. As part of this strategy, the Tribunal assessed its remaining workload and determined the necessity of redeploying resources to the Appeals Chamber. This strategy is contained in the proposed programme budget for the biennium 2010-2011 and will expedite the work of the Tribunal and save significant resources.

II. Activities involving the entire Tribunal

A. President

6. President Robinson's presidency commenced with a detailed assessment of the trial and anticipated appellate workload of the Tribunal.

1. Internal reforms

7. The influx of contempt proceedings, particularly those that relate to ongoing trials, has had a significant impact on the expeditious completion of those trials. As a measure to minimize their impact on the trial proceedings, some Chambers have attempted to deal with contempt allegations as part of and during their trial proceedings. In April, President Robinson established a Working Group to assess the

procedural and substantive aspects of contempt proceedings and to recommend methods of expediting their adjudication. The report and recommendations of the Working Group were submitted in July 2009. Moreover, the Rules of Procedure and Evidence (Rules) were amended in order to reduce certain time limits in contempt cases, in order to further expedite such proceedings.

2. Capacity-building and legacy

8. President Robinson built upon the work of his predecessor, Judge Pocar, making the capacity-building of national jurisdictions a priority of the Tribunal's legacy strategy. During the reporting period, major results were achieved and new activities were initiated in order to secure the continuation of the Tribunal's work through the prosecution of war crimes cases by domestic courts.

9. In May 2009, the Tribunal published a manual on its developed practices in cooperation with UNICRI, providing for the first time a comprehensive description of the Tribunal's operating practices as seen from the inside. The manual, which has been made available in English and Bosnian/Serbian/Croatian, allows judicial practitioners in the former Yugoslavia, as well as globally, to benefit from the Tribunal's experience in developing procedures for the efficient and fair processing of international crimes.

10. The Tribunal identified a number of priority activities through a needs assessment and consultation process conducted in cooperation with the Office for Democratic Institutions and Human Rights. Together with the Office and UNICRI, the Tribunal is preparing to undertake major projects aimed at further developing the ability of national jurisdictions to utilize the Tribunal's legal and material legacy for their own proceedings. The projected tasks include the production of transcripts from the Tribunal's trials in Bosnian/Croatian/Serbian, legal studies linking national criminal codes to international case law, and preparations for the establishment of information centres under local ownership in the former Yugoslavia, enabling wide access for a variety of users to the Tribunal's public records.

3. Diplomatic relations and other representation

11. During the reporting period, both Presidents were actively involved in cooperation and outreach activities to secure support for the Tribunal's work and increase its international profile.

12. On 13 October 2008, former President Pocar addressed the General Assembly regarding the Tribunal's fifteenth annual report (A/63/210-S/2008/515).

13. On 2 December 2008, President Robinson, Prosecutor Serge Brammertz, and former Registrar Hans Holthuis held a biannual periodic briefing for the diplomatic community in The Hague. More than 60 ambassadors and members of the diplomatic community attended the meeting, which focused on developments at the Tribunal and progress made towards the completion of its mandate. On 12 December, President Robinson addressed the Security Council regarding the Tribunal's tenth completion strategy report.

14. On 14 February 2009, President Robinson delivered a speech at Nova Southeastern University in Davie, Florida, United States of America. In his speech, he addressed the interaction of legal systems in the work of the Tribunal.

15. On 2 April 2009, President Robinson delivered a speech at a conference entitled "The unfinished business of the United Nations criminal tribunals of the former Yugoslavia and Rwanda: the future role of the EU and its member States" before the European Parliament in Brussels. He discussed the key challenges of completion and post-closure for the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda. On 6 April, the Tribunal's public Court Records Database was launched on the Tribunal's website. On 27 April, President Robinson received at the Tribunal the United States Ambassador-at-Large for War Crimes. The President, the Prosecutor and the Registrar updated the Ambassador on a range of issues, including the Tribunal's achievements to date, the implementation of the completion strategy and plans for preserving the Tribunal's legacy.

16. On 12 May 2009, President Robinson delivered the keynote speech at the annual Human Dimension Seminar organized by OSCE. The President discussed the Tribunal's role in strengthening the rule of law in the former Yugoslavia and the importance of the independence of the judiciary. On 19 May, the President conducted the swearing in proceedings of the Tribunal's new Registrar. On 28 May, the President spoke at the launch of the Tribunal's Manual on Developed Practices, a publication aimed at preserving the Tribunal's legacy and aiding jurisdictions adjudicating international crimes. Also on 28 May, the President, the Prosecutor and the Registrar held a briefing for the diplomatic community in The Hague, addressing more than 50 embassy representatives and officials from international organizations on developments at the Tribunal and progress made toward the implementation of its completion strategy.

17. In June 2009, President Robinson conducted his first official visit to the region of the former Yugoslavia since being elected as the Tribunal's President. The President met with colleagues from local judiciaries in Croatia, Bosnia and Herzegovina and Slovenia, as well as representatives of Governments and civil society. The President delivered the keynote addresses at two conferences in Dubrovnik and Sarajevo, met with the mayors of the two cities, and also conducted a visit to the President of Slovenia in Ljubljana. On 4 June, the President addressed the Security Council regarding the Tribunal's eleventh completion strategy report. The President highlighted the organization's successes and key challenges ahead. On 9 June, the President together with UNICRI, launched the Tribunal's Manual on Developed Practices during a side event to a meeting of the Assembly of States Parties to the International Criminal Court. On 15 June, the President delivered the opening speech at a conference organized by UNICRI and the Tribunal, where the translation of the Manual on Developed Practices into the languages of the region was launched. On 19 June, the President met with the Prime Minister of the former Yugoslav Republic of Macedonia. On 25 June, the President was the keynote speaker at the Inaugural Conference of the Caribbean Association of Judicial Officers, having received an invitation from the President of the Caribbean Court of Justice in Port of Spain. He spoke about measures adopted to increase the efficiency of proceedings at the Tribunal, their impact on the fairness of trials, and the applicability of these measures to Caribbean jurisdictions.

18. In July 2009, President Robinson made a working visit to the Supreme Court of Serbia and met with the President of the Court, among others. The purpose of the visit was to exchange experiences in the prosecution of persons accused of committing serious violations of international humanitarian law.

4. Judicial activity

19. By virtue of the powers vested in him by the statute, the Rules, and the Practice Directions of the Tribunal, the President issued numerous orders assigning cases to Chambers; reviewed several decisions of the Registrar; issued orders designating the State in which Pavle Strugar, Stanislav Galić, Milan Martić, Momčilo Krajišnik and Dragan Jokić were to serve their sentences; granted five requests for early release; and rejected an application for pardon or commutation of sentence.

B. Bureau

20. Pursuant to rule 23, the Bureau is composed of the President, the Vice-President and the presiding judges of the Trial Chambers. The President consulted the Bureau on issues relating to the functioning of the Tribunal and on requests for early release or commutation of sentence.

C. Coordination Council

21. Pursuant to rule 23 bis, the Coordination Council consists of the President, the Prosecutor and the Registrar. During the reporting period, the Council met regularly to discuss, inter alia, the Tribunal's completion strategy, staff retention, translation priorities, legacy activities, communications policy, and the work of the Security Council Working Group on the ad hoc Tribunals with respect to the Tribunal's residual mechanism.

D. Plenary sessions

22. During the reporting period, the judges held one regular plenary session, on 22 July 2009, and four extraordinary plenary sessions on 25 August, 2 October and 4 November 2008 and 24 March 2009. At the extraordinary plenary session of 4 November 2008, Judge Patrick Robinson (Jamaica) and Judge O-Gon Kwon (Republic of Korea) were elected to the positions of President and Vice-President of the Tribunal, respectively, and a new rule 45 ter was adopted, allowing for the assignment of counsel to an accused in the interests of justice. At the 22 July 2009 plenary session, the Rules were amended in order to reduce certain time limits in contempt cases, in order to further expedite such proceedings.

E. Rules Committee

23. Following the election of a new President and Vice-President, the judicial membership of the Rules Committee was re-composed as follows: Judge Carmel Agius (Chair), President Patrick Robinson, Vice-President O-Gon Kwon, and Judges Alphons Orie, Kevin Parker and Christoph Flügge. The non-voting members include the Prosecutor, the Registrar and a representative of the Association of Defence Counsel. During the reporting period, the Rules Committee met on the following dates to discuss proposals to the Rules and make recommendations to the Judges: 1 September and 16 October 2008, and 11 and 22 June 2009.

F. Residual mechanism

24. The Tribunal continued to respond diligently to requests for information from the Office of the Legal Counsel with respect to the development of a residual mechanism, as the Tribunal draws closer to the completion of its mandate. In this regard, the Tribunal provided information, for inclusion in the Secretary-General's report on the residual mechanism to the Security Council, about the mechanism's possible functions, tentative staffing estimates, structure and location. On 2 October 2008, the Security Council Working Group on the ad hoc Tribunals made an on-site visit to the Tribunal and met many judges and staff members, in order to gain a more comprehensive understanding of the areas with which the residual mechanism will have to deal.

III. Activity of Chambers

A. Composition of the Chambers

25. Today, the Tribunal has 27 judges from 25 countries. The Chambers are composed of 13 permanent judges, two permanent judges from the International Criminal Tribunal for Rwanda serving in the Appeals Chamber and 12 ad litem judges.

26. The permanent judges are Patrick Robinson (President, Jamaica), O-Gon Kwon (Vice-President, Republic of Korea), Kevin Parker (Presiding Judge, Australia), Iain Bonomy (Presiding Judge, United Kingdom), Alphons Orie (Presiding Judge, The Netherlands), Fausto Pocar (Italy), Liu Daqun (China), Theodor Meron (United States of America), Carmel Agius (Malta), Jean-Claude Antonetti (France), Christine Van Den Wyngaert (Belgium), Bakone Justice Moloto (South Africa) and Christoph Flügge (Germany). The permanent judges from the International Criminal Tribunal for Rwanda serving in the Appeals Chamber are Mehmet Güney (Turkey) and Andrésia Vaz (Senegal). Judge Mohamed Shahabuddeen (Guyana), who served in the Appeals Chamber, resigned during the reporting period. Judge Wolfgang Schomburg (Germany), who served in the Appeals Chamber, resigned during the reporting period and was replaced by Judge Christoph Flügge (Germany).

27. During the reporting period the following have served as ad litem judges: Krister Thelin (Sweden), Janet Nosworthy (Jamaica), Frank Höpfel (Austria), Árpád Prandler (Hungary), Stefan Trechsel (Switzerland), Antoine Kesia-Mbe Mindua (Democratic Republic of the Congo), Ali Nawaz Chowhan (Pakistan), Tsvetana Kamenova (Bulgaria), Kimberly Prost (Canada), Ole Bjørn Støle (Norway), Frederik Harhoff (Denmark), Flavia Lattanzi (Italy), Pedro David (Argentina), Michèle Picard (France), Uldis Kinis (Latvia), Elizabeth Gwaunza (Zimbabwe) and Melville Baird (Trinidad and Tobago).

28. The following judges served in the Trial Chambers during the reporting period: Judges Robinson (presiding), Agius (presiding), Parker (presiding), Bonomy (presiding), Orie (presiding), Kwon, Antonetti (presiding), Van Den Wyngaert, Moloto (presiding), Flügge, Thelin, Nosworthy, Höpfel, Prandler, Trechsel, Mindua, Chowhan, Kamenova, Prost, Støle, Harhoff, Lattanzi, David, Picard, Kinis, Gwaunza and Baird.

29. The Appeals Chamber is composed of Judges Robinson (presiding), Güney, Pocar, Liu, Vaz, Meron and Agius.

B. Principal activity of the Trial Chambers

1. Trial Chamber I

(a) Pretrial

30. There are currently no pretrial cases pending before the Trial Chamber I.

(b) Trial

Gotovina, Čermak and Markač

31. The accused are charged with crimes against humanity and violations of the laws or customs of war allegedly committed in Croatia in 1995. The Trial Chamber is composed of Judges Orie (presiding), Kinis and Gwaunza. Trial commenced on 10 March 2008.

Perišić

32. Momčilo Perišic is charged with crimes against humanity and violations of the laws or customs of war allegedly committed in Sarajevo and Srebrenica (Bosnia and Herzegovina), as well as in Zagreb (Croatia) between August 1993 and November 1995. The Trial Chamber is composed of Judges Moloto (presiding), David and Picard. Trial commenced on 2 October 2008.

J. Stanišić and Simatović

33. Jovica Stanišić and Franko Simatović are charged with crimes against humanity and violations of the laws or customs of war allegedly committed in Croatia and Bosnia and Herzegovina between April 1991 and December 1995. The Trial Chamber is composed of Judges Orie (presiding), Picard and Gwaunza. Trial commenced on 28 April 2008, but was adjourned by order of the Appeals Chamber of 16 May 2008 owing to the health of Jovica Stanišić. Trial re-commenced on 2 June 2009.

Hartmann

34. Florence Hartmann is charged with contempt of the Tribunal for disclosing two confidential decisions of the Appeals Chamber in her book entitled *Paix et châtiment*, published by Flammarion, and in an article entitled "Vital genocide documents concealed", published by the Bosnian Institute. The Trial Chamber is composed of Judges Moloto (presiding), Güney and Liu. Trial commenced on 15 June 2009, and closing arguments were heard on 3 July 2009. The judgement will be delivered in due course.

Delić

35. Rasim Delić was charged with violations of the laws or customs of war allegedly committed between July 1993 and December 1995 in Bosnia and Herzegovina. The Trial Chamber was composed of Judges Moloto (presiding),

Harhoff and Lattanzi. Judgement was rendered on 15 September 2008. Rasim Delić was sentenced to three years of imprisonment.

Haraqija and Morina

36. Astrit Haraqija and Bajrush Morina were charged with contempt of the Tribunal for alleged intimidation and interference with a protected witness. The Trial Chamber was composed of Judges Orie (presiding), Van den Wyngaert and Moloto. Judgement was rendered on 17 December 2008. Astrit Haraqija was sentenced to five months of imprisonment. Bajrush Morina was sentenced to three months of imprisonment.

2. Trial Chamber II

(a) Pretrial

Tolimir

37. Zdravko Tolimir is charged with genocide, conspiracy to commit genocide, crimes against humanity and violations of the laws or customs of war allegedly committed in Bosnia and Herzegovina in 1995. The Trial Chamber is composed of Judges Agius (presiding), Kwon and Prost (pretrial judge). The trial is expected to commence in December 2009.

(b) Trial

Popović et al.

38. Vujadin Popović, Ljubiša Beara, Drago Nikolić, Ljubomir Borovčanin and Vinko Pandurević are charged with genocide, conspiracy to commit genocide, crimes against humanity, and violations of the laws or customs of war. Radivoje Miletić and Milan Gvero are charged with crimes against humanity and a violation of the laws or customs of war. The crimes charged were allegedly committed in Bosnia and Herzegovina in 1995. The Trial Chamber is composed of Judges Agius (presiding), Kwon, Prost and Støle (reserve judge). Trial commenced on 14 July 2006, and proceedings in the case will be completed soon.

Đorđević

39. Vlastimir Đorđević is charged with crimes against humanity and violations of the laws or customs of war allegedly committed in Kosovo in 1999. The trial commenced on 27 January 2009. The Trial Chamber is composed of Judges Parker (presiding), Flügge and Baird. The Prosecution is currently presenting its case-in-chief.

Jokić

40. Contempt proceedings against Dragan Jokić were initiated following his refusal to testify in the case of *Prosecutor v. Popović et al.* The Trial Chamber issued an order in lieu of indictment on contempt on 1 November 2007. Three hearings were held, in which Jokić led evidence from two witnesses, tendered several exhibits, and cross-examined an expert called by the Chamber. In a Judgement delivered on 27 March 2009, Jokić was found guilty of contempt of the Tribunal and was sentenced to four months of imprisonment.

Šešelj

41. On 21 January 2009, Trial Chamber II issued an order in lieu of indictment charging Vojislav Šešelj with contempt for having disclosed, in a book authored by him, confidential information in violation of orders granting protective measures to three witnesses as well as excerpts of one of their written statements. An *amicus curiae* Prosecutor was assigned by the Acting Registrar on 11 February 2009. At his initial appearance held on 6 March 2009, Vojislav Šešelj pleaded not guilty. The trial was held on 29 May 2009. The judgement was rendered on 24 July 2009, in which Šešelj was convicted of contempt of the Tribunal and sentenced to 15 months of imprisonment.

3. Trial Chamber III

(a) Pretrial

Karadžić

42. Radovan Karadžić is charged under 11 counts with genocide, crimes against humanity, and violations of the laws or customs of war allegedly committed in Bosnia and Herzegovina between 1992 and 1995. Following his arrest and transfer to the Tribunal on 30 July 2008, pleas of not guilty were entered on his behalf to all charges. The Trial Chamber is composed of Judges Bonomy (presiding), Flügge and Picard. A trial date has not yet been scheduled, but the pretrial conference is anticipated to be held in September 2009.

M. Stanišić and Župljanin

43. Mico Stanišic and Stojan Župljanin are both charged with 10 counts of crimes against humanity and violations of the laws or customs of war allegedly committed in April through December 1992 in Bosnia and Herzegovina. The Trial Chamber is composed of Judges Bonomy (presiding), Stole and Harhoff (pretrial judge). The pretrial conference is scheduled for 25 August 2009, and the commencement of trial has been tentatively scheduled for 31 August 2009.

(b) Trial

Šešelj

44. Vojislav Šešelj is charged with crimes against humanity and violations of the laws or customs of war allegedly committed in Croatia, Bosnia and Herzegovina and Vojvodina (Serbia) between August 1991 and September 1993. The Trial Chamber is composed of Judges Antonetti (presiding), Harhoff and Lattanzi. The trial started on 7 November 2007. On 11 February 2009, the Trial Chamber, at the Prosecution's request, adjourned the hearing of certain witnesses called by the Prosecution, finding that hearing them at this time would jeopardize the integrity of proceedings and the security of the witnesses.

Milutinović et al.

45. Milan Milutinović, Nikola Šainović, Dragoljub Ojdanić, Nebojša Pavković, Vladimir Lazarević and Sreten Lukić were charged with crimes against humanity and violations of the laws or customs of war allegedly committed in Kosovo in 1999. The Trial Chamber, composed of Judges Bonomy (presiding), Chowhan,

Kamenova and Nosworthy (reserve judge), issued its Judgement in the case on 26 February 2009, acquitting the first accused on all counts and convicting the others on some or all of the charges. Šainović, Pavković and Lukić were each sentenced to 22 years' imprisonment, and Ojdanić and Lazarević were each sentenced to 15 years' imprisonment.

Prlić et al.

46. Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić and Berislav Pušić are charged with grave breaches of the Geneva Conventions, crimes against humanity, and violations of the laws or customs of war allegedly committed between November 1991 and April 1994 in Bosnia and Herzegovina. The Trial Chamber is composed of Judges Antonetti (presiding), Trechsel, Prandler and Mindua (reserve judge). Trial commenced on 26 April 2006. The Prosecution case has ended, and the Chamber began hearing defence evidence on 5 May 2008. Prlić and Stojić have ended their cases, and on 5 May 2009, Praljak began to present his case.

M. Lukić and S. Lukić

47. Milan Lukić and Sredoje Lukić were charged with crimes against humanity and violations of the laws or customs of war allegedly committed in Bosnia and Herzegovina between June 1992 and October 1994. The Trial Chamber was composed of Judges Robinson (presiding), Van den Wyngaert and David. The trial commenced on 9 July 2008 and the evidence was completed on 19 May 2009. Judgement was delivered on 20 July 2009, sentencing Milan Lukić to life imprisonment and Sredoje Lukić to 30 years' imprisonment.

4. Referral Bench

48. There were no referral decisions during this reporting period; however, the Referral Bench continued to assess the previously referred cases through periodic progress reports submitted by the Prosecutor.

C. Principal activity of the Appeals Chamber

Interlocutory appeals

49. Thirty-six decisions on interlocutory appeals were issued in the following cases: *Karadžić* (8); *Gotovina et al.* (2); *Popović et al.* (4); *Prlić et al.* (14); *Šešelj* (1); *Tolimir* (2); *Perišić* (3); *Lukić and Lukić* (1); *Milutinović et al.* (1).

Request for review

50. One decision on review was issued in the *Naletilić* case.

Contempt appeal

51. Three Judgements on contempt were issued in the *Haxhiu*, *Jokić*, and *Haraqija* and *Morina* cases.

Appeals on the merits

52. The Appeals Chamber rendered three final Judgements in the cases of *Martić*, *Krajišnik* and *Mrkšić and Šljivančanin*. On 8 October 2008, the Appeals Chamber dismissed 9 of the 10 grounds of Milan Martić's appeal and affirmed the 35-year sentence of imprisonment handed down at trial. The Prosecution appeal regarding a specific question of law was granted, but the appeal against sentence was dismissed. On 17 March 2009, the Appeals Chamber granted a number of grounds and subgrounds of Momčilo Krajišnik's appeal, quashed a number of convictions, dismissed the remaining grounds of appeal, and issued a reduced sentence of 20 years' imprisonment (down from 27 years at trial). The Prosecution appeal against sentence in the case was dismissed. On 5 May 2009, the Appeals Chamber dismissed all grounds of appeal from both Mile Mrkšić and Veselin Šljivančanin. It affirmed Mrkšić's sentence of 20 years' imprisonment and granted the Prosecution's appeal in part and consequently increased Šljivančanin's sentence to 17 years' imprisonment, from the five years handed down at trial.

53. During the reporting period, new appeals from Judgement were filed before the Appeals Chamber in the *Delić* and the *Šainović et al.* cases. Three appeals are currently pending before the Appeals Chamber from the previous reporting period, in the *Dragomir Milošević*, *Haradinaj et al.* and *Boškoski and Tarčulovski* cases. Pre-appeal activity is ongoing in all five of these cases. A total of 46 pre-appeal decisions and orders were issued in the reporting period. The *Dragomir Milošević* case was heard on 21 July 2009, and the judgement is in preparation. The *Haradinaj et al.*, *Boškoski and Tarčulovski* and *Delić* cases are currently being prepared for hearings.

Other appeals

54. The Appeals Chamber rendered three decisions on other appeals in the following cases: *Gotovina et al.*, *Šešelj* and *Karadžić*.

IV. Activity of the Office of the Prosecutor

A. Completion of trial and appeals proceedings

55. The Prosecutor remains strongly committed to completing the remaining trials and appeals in accordance with the Tribunal's completion strategy. Over the reporting period, progress towards the completion of the trial programme has been significant. By the end of the reporting period, 21 accused in seven trials were being prosecuted. The *Popović et al.* trial is expected to conclude with final arguments soon. The *Prlić et al.* and *Gotovina et al.* trials are in the defence stage. Four trials, *Šešelj*, *Đorđević*, *Perišić* and *Stanišić and Simatović* are in varying phases of the Prosecution case. At the end of the reporting period, only three cases (four accused) remain in pretrial stages: *Karadžić*, *Stanišić and Župljanin* and *Tolimir*.

56. In recent months, unpredicted events have caused delays in the trial schedule. A major delay occurred in *Šešelj* near the end of the Prosecution case from an adjournment caused by difficulties in securing the remaining witnesses' evidence. Considerable uncertainty exists about a continuation date of the trial.

57. During the reporting period, appellate work has remained constant. The Prosecution has filed appeals against five of the six accused in the first multiple-accused judgement, *Milutinović et al.* Briefs were filed in the *Haradinaj et al.*, *Dragomir Milošević*, *Boškoski and Tarčulovski* and *Delić* cases. An oral hearing in *Dragomir Milošević* was held on 21 July 2009. Hearings in the other briefed cases are anticipated in September and October 2009. The trial judgement in *Lukić and Lukić* was delivered on 20 July 2009 resulting in a life sentence and a sentence of 30 years; if appeals are filed in this case, this will add to the appellate activities of the Office. The trial judgement in the case of *Popović et al.* is expected to be delivered before the end of the year.

B. Cooperation

1. International cooperation

58. The Office of the Prosecutor continues to seek the full cooperation of the States of the former Yugoslavia and other States to fulfil its mandate, as required under article 29 of the statute of the Tribunal.

59. Cooperation from States of the former Yugoslavia remains vital, particularly in the areas of (a) access to archives, documents and witnesses; (b) the protection of witnesses; and (c) efforts to locate, arrest and transfer the two remaining fugitives and take measures against those who support them.

60. To achieve timely cooperation in these areas, during the reporting period, the Prosecutor met on several occasions with political and judicial authorities in Serbia, Croatia and Bosnia and Herzegovina. In addition, the Office of the Prosecutor continued to maintain dialogue with key officials at both the State and working levels and to develop existing partnerships with national prosecution offices. The Prosecutor also regularly met with ambassadors and other representatives in The Hague.

2. Cooperation of Serbia

61. During the reporting period, developments at the political level and the new leadership at the operational level have led to an improvement of Serbia's cooperation with the Office of the Prosecutor. Serbia has complied with the majority of requests for assistance, including requests to facilitate the appearance of witnesses, access to archives, and the provision of documents. Whereas in the beginning of the reporting period, a number of important requests for access to documents and archives remained outstanding, by July 2009 nearly all requests had been addressed. Serbia's National Council for Cooperation with the Tribunal has successfully led efforts to comply with the Office of the Prosecutor's requests. Continued cooperation from Serbia in providing documents and access to archives sought by the Office of the Prosecutor will be paramount during the remaining senior leadership trials, including the *Karadžić* case.

62. The most critical aspect of Serbia's cooperation remains the apprehension of the fugitives, Ratko Mladić and Goran Hadžić. During the reporting period, the Office of the Prosecutor closely followed the work of the Serbian authorities to locate these fugitives and was regularly briefed on their activities. During the reporting period, Serbia's National Security Council and Action Team in charge of

tracking the fugitives led complex and widespread search operations against the two accused and their support networks. Government services are currently carrying out thorough analysis of information gathered, including information previously available, but not acted upon. Notwithstanding certain deficiencies in some search and seizure operations, the professionalism and efficiency of services involved in tracking fugitives has generally improved. Coordination between the various services in charge of tracking fugitives, which is crucial, is now better compared with a year ago.

63. The Office of the Prosecutor has called upon the political authorities of Serbia to provide all support to the professional work done at the operational level in the hope that these efforts will lead to the arrest of the two remaining fugitives. The Office of the Prosecutor expressed concern with regard to negative and unjustified statements made by Government officials and agencies calling into question the integrity of the Tribunal. These seem to be in contradiction with the level of cooperation provided by the professional services.

3. Cooperation of Croatia

64. During the reporting period, Croatia responded adequately and in a timely manner to the majority of requests for assistance from the Office of the Prosecutor. In addition, the Office of the Prosecutor continued to receive adequate assistance from the Office of the Croatian State Prosecutor.

65. However, during the reporting period, the Office of the Prosecutor has continued to face difficulties in securing Croatia's cooperation in the *Gotovina et al.* trial. Specifically, since 2007, Croatia has continuously failed to hand over key military documents related to Operation Storm. Moreover, progress was limited in the investigation which the Court ordered Croatia to conduct into the missing documents. The Office of the Prosecutor raised with Croatia concerns about the focus, manner, and methodology of the investigation conducted. The matter remains pending before the Chamber. Throughout the reporting period, the Office of the Prosecutor has remained in close contact with the authorities at the Government level and at the level of experts in order to resolve the matter.

4. Cooperation of Bosnia and Herzegovina

66. The authorities of Bosnia and Herzegovina continue to grant access to Government archives and to provide requested documents. The authorities also continue to respond adequately to specific requests for assistance, in particular, by facilitating the attendance of witnesses before the Tribunal.

67. During the reporting period, Bosnia and Herzegovina's judicial and law enforcement system continued to face challenges, which could have an impact on its cooperation with the Tribunal. The Office of the Prosecutor encouraged the authorities of Bosnia and Herzegovina to take necessary measures against those helping the remaining fugitives evade justice or otherwise obstructing the effective implementation of the Tribunal's mandate. The Office of the Prosecutor also continued to ask that measures be taken against those that helped Radovan Stanković escape from prison after he was transferred by the Tribunal to Bosnia and Herzegovina two years ago. The fact that Radovan Stanković has still not been apprehended remains a matter of serious concern.

5. Cooperation from other States and organizations

68. The Office of the Prosecutor continues to rely on States and international organizations for support to arrest the remaining fugitives and in the provision of documents and information required for various trials and appeals.

69. The Office of the Prosecutor appreciates the support provided by States, international and regional organizations (such as the United Nations, the European Union, OSCE, the Council of Europe), and non-governmental organizations, including those active in the former Yugoslavia. This support will remain crucial to the progress of the Tribunal's work.

70. In September 2008 and in June 2009, the Prosecutor briefed the General Affairs and External Relations Council of the European Union on the work of the Office of the Prosecutor and on the cooperation of Bosnia and Herzegovina, Croatia and Serbia.

C. Transfer of cases and investigative files

71. As reported previously, the rule 11 bis transfer procedures have been fully used and no further cases appear suitable for transfer. Of the six cases transferred to Bosnia and Herzegovina, five have concluded with a final appellate decision, and one remains pending at trial. One case transferred to Croatia is awaiting the final appellate decision, while one case transferred to Serbia has been discontinued because of the mental incapacity of the accused. OSCE continues to monitor trial and appeal proceedings in cases transferred to Bosnia and Herzegovina and Croatia on behalf of the Office of the Prosecutor and provides regular reports to the Office. These OSCE reports serve as the basis for the Prosecutor's quarterly progress reports to the Tribunal's judges.

72. The Office of the Prosecutor continues to compile and review investigative material for handover to the State Prosecutor's Office of Bosnia and Herzegovina. During the reporting period, five complete case files (relating to 16 suspects and covering 5 municipalities) were transferred to Bosnia and Herzegovina. The Office anticipates that it will complete the transfer of investigative material related to the last four cases involving 11 suspects to the Office of the Prosecutor of Bosnia and Herzegovina by end 2009. Extensive follow-up assistance will continue to be provided.

73. The Office of the Prosecutor continues to support international and national efforts to strengthen the Special Department for War Crimes of the State Court of Bosnia and Herzegovina. This assistance is crucial to sustaining the investigation and prosecution work regarding investigation files transferred by the Tribunal.

74. The Office of the Prosecutor also regularly responds to requests for assistance from national judicial authorities in the former Yugoslavia and from States outside the former Yugoslavia investigating war crimes committed there.

75. Finally, delegations from prosecutors' offices, mainly from the countries of the former Yugoslavia, continue to visit the Office of the Prosecutor in search of material to support national war crimes investigations.

D. Capacity-building

76. The Office of the Prosecutor continued to fully support the furtherance of the rule of law in the region through capacity-building activities and the development of partnerships with national prosecutors. A concrete example is the joint project between the European Union and the Tribunal enabling liaison prosecutors and interns from the region to work in the Office of the Prosecutor. In June 2009, liaison prosecutors from Bosnia and Herzegovina, Croatia and Serbia assumed duties under this new cooperation programme.

77. Cooperation between the authorities of the region in judicial matters remains crucial for the successful prosecution of war crimes cases at the national level. To promote regional cooperation, the Office of the Prosecutor, with the support of the European Union, also organized a conference of the State and War Crimes Prosecutors of Bosnia and Herzegovina, Croatia, Serbia, Montenegro and the former Yugoslav Republic of Macedonia, in Brussels on 2 and 3 April 2009. Progress in cooperation between prosecution services has been achieved through the development of case inventories using compatible software. While prosecutors have cooperated well, parallel investigations remain a problem where, due to the absence of a legal basis for cooperation, evidence is held by one country, but the suspect resides in another country. The Prosecutor has asked States to urgently address these issues, which could also affect the further prosecution of cases and material transferred by the Office of the Prosecutor.

V. Activity of the Registry

78. During the reporting period, the Registry continued to provide operational support to the Chambers and the Office of the Prosecutor in accordance with the statute of the Tribunal and the Rules, and to manage the Tribunal in all administrative areas. The Registry was headed by Hans Holthuis until 31 December 2008, when his term of office expired. The then Deputy Registrar, John Hocking, served as Acting Registrar until his appointment as Registrar, effective 15 May 2009.

A. Office of the Registrar

79. The Office of the Registrar consists of the Registry Advisory Section for Legal and Policy Matters and the Communications Service.

80. The Registry Advisory Section provided advice to the Registrar, Deputy Registrar, and the Administration of the Tribunal on policy matters, claims against the organization, and contractual and liability issues, offering opinions and interpretations of the statute of the Tribunal, the Rules, the Staff Rules, the Financial Regulations of the United Nations, administrative directives, and other internal legislation. The Section drafted court filings related to issues involving or initiated by the Registry and also prepared briefs for the litigation of staff member claims brought before the Secretary-General and the Joint Appeals Board. It also negotiated and prepared commercial contracts.

81. The Registry Advisory Section frequently liaised with the host country and provided legal and policy advice in the implementation of the Host Country Agreement. The Section assisted in the negotiation of agreements and memorandums of understanding between the Tribunal and States Members of the United Nations on issues such as the Detention Unit, the enforcement of sentences (three agreements were signed during the reporting period), and the relocation of sensitive witnesses (four agreements).

82. The Communications Service — composed of a Media, Outreach, and Web Section and a Library, Publications, Tribunet and Visits Section — launched a new website in December 2008 that will provide audiences with greater information about the Tribunal's history, achievements and ongoing work. The new website includes research tools and databases, such as the Tribunal's Court Records Database. This database provides public and digital access to the Tribunal's court records, comprises nearly 160,000 court filings, and is an important vehicle for the transfer of the Tribunal's knowledge and expertise to the region of the former Yugoslavia and beyond. The Tribunal's Outreach Programme continued to set the standard for international courts, while the Media Office remained active with major media events, such as the transfer of Radovan Karadžić. The Library, Publications, Tribunet and Visits Section increased the effectiveness of the Tribunal's Tribunet and internal communication portal (the organization's key communication tool) to make it more user-friendly for staff.

B. Judicial support services sections

83. During the reporting period, the Court Management and Support Services Section supported up to eight trials, as well as numerous pre-trial, contempt and appeals hearings. The Section was also involved in the establishment of the Court Records Database. The Section worked closely with the Tribunal's Archive Section on a digitization project of the complete audio-visual archives of all court proceedings. As several accused have chosen to represent themselves, a *Pro Se* Office has been created under the joint supervision of the Court Management and Support Services Section and the Office for Legal Aid and Detention Matters. The purpose of the *Pro Se* Office is to coordinate the provision of facilities to self-represented accused for the preparation of their defence. Such facilities include access to the Electronic Disclosure Suite at the Detention Unit, the provision of documents, photocopying facilities, and additional storage space at the Detention Unit.

84. The Conference and Language Services Section continued to provide the required interpretation, translation and court reporting services. During the reporting period, the two Translation Units translated approximately 70,000 pages into English, French, Bosnian/Croatian/Serbian, Albanian and Macedonian. The Conference Interpretation Unit registered 7,000 conference interpreter days. The court reporting services produced 138,000 pages of transcript for up to eight trials.

85. The Victims and Witnesses Section consists of three main units. The Section's Operations and Support Units facilitated 727 witnesses (and accompanying support persons) travelling to The Hague to give evidence. The Protection Unit coordinated professional responses to an increased number of threats to witnesses before, during,

and after their appearance at the Tribunal. Under appropriate circumstances, the Protection Unit also worked to relocate protected witnesses.

86. The Office for Legal Aid and Detention Matters serviced over 500 defence team members in cases in pretrial, trial and appellate proceedings. The largest impact on the workload of the Office resulted from multiple-accused trials, along with an increased use of legal aid funds owing to the complexity and length of these trials. The reporting period also witnessed an unprecedented number of contempt of court proceedings, requiring the Office to appoint and remunerate *amici curiae* investigators and prosecutors, as well as defence counsel to the accused.

87. The Office for Legal Aid and Detention Matters provided counsel to suspects during interviews with the Prosecution and to Tribunal-convicted persons or other persons detained at the Detention Unit who testified in cases before the Tribunal. Applications for early release and commutation of sentence also increased as convicted persons who had served two thirds of their sentences applied through counsel to the President for early release. All cases at the pretrial and trial stages were remunerated by way of a lump sum, while cases on appeal were remunerated on the basis of an hourly allotment. It is envisaged that the hourly payment policy will be replaced by a lump sum legal aid policy as soon as consultations with the Association of Defence Counsel are completed; this policy is expected to be adopted in the later part of 2009. Contempt of court cases were also remunerated at an hourly rate; however, with the increase in such cases, the Office is currently developing a payment policy for contempt cases and it is envisaged that a lump sum payment system will replace the hourly system. The Office continued to administer payment issues pertaining to legal associates to self-represented accused, under the special Remuneration Scheme that was developed during the previous reporting period. In line with specific guidance provided by the Trial and Appeals Chambers, the Office is currently revising this payment policy to reflect the most recent jurisprudence on public funding for the defence of self-represented accused.

88. The Office for Legal Aid and Detention Matters also supported the defence institutionally by expanding the information technology facilities so that defence counsel could continue to fulfil their important role in upholding international justice. The Office continued working in close cooperation with the Association of Defence Counsel to ensure the professional integrity of counsel and engaged the Association of Defence Counsel in consultations on major decisions and policies affecting the work of defence counsel.

89. Finally, the Office for Legal Aid and Detention Matters — within the framework of the Inter-Tribunal Cooperation Project and together with its counterparts at the International Criminal Tribunal for Rwanda, the Special Court for Sierra Leone, and the International Criminal Court — shared its experience on a number of defence-related issues, such as the application of the lump sum payment policies, the withdrawal of counsel, and self-representation.

90. During the reporting period, the Detention Unit continued to operate at a high level of activity, serving the judicial process on a daily basis for accused in the trial phase and providing secure custodial care to all detained persons. Additional challenges included an ageing detainee population (average age over 57 years) resulting in increased, complex medical and health-care issues; an unprecedented number of provisional releases of various durations; and facilitation of additional needs of several self-representing accused, detained witnesses, and detainees

charged with contempt of the Tribunal. In October 2008, the Unit reduced its cell capacity by almost 24 per cent, reflecting the initial phase of the downsizing of the Tribunal.

C. Administrative Support Service Division

91. By its resolution 63/255, the General Assembly, having considered the reports of the Secretary-General and the Advisory Committee on Administrative and Budgetary Questions on revised estimates, decided to approve a revised appropriation to the Special Account for the Tribunal in the amount of $376,232,900 gross ($342,332,300 net) for the biennium 2008-2009.

92. The revised staffing levels for the biennium included the reinstatement for the full 12-month period in 2009 of the 258 positions which were originally earmarked for abolition during 2009.

93. During the biennium 2008-2009, extrabudgetary resources are estimated at $3,478,900, to be utilized for a variety of Tribunal activities. As at 15 June 2009, cash donations of approximately $45.7 million had been received for the voluntary fund to support the activities of the Tribunal. For the period from 15 June 2008 to 15 June 2009, the Tribunal received $1,339,291 in voluntary cash contributions.

94. During the reporting period, the Administrative Support Service Division continued to support the implementation by the Human Resources Section of special measures to retain staff (career transition, staff development and training needs). To that end, it coordinated the launch of a comprehensive Career Development Programme. It was also engaged in formulating a procedure to be used for the downsizing of posts in 2010-2011 in consultation with staff representatives.

95. Finally, the Division was responsible for coordinating the preparation of the revised estimates for the biennium 2008-2009 and the proposed programme budget for the biennium 2010-2011.